

### **REMARKS**

The present Amendment amends claims 22, 24, 26, 29 and 32 and adds new claims 33 and 34. Therefore, the present application has pending claims 22, 24, 26, 29 and 32-34.

In paragraph 2 of the Office Action the Examiner rejected claim 22 under 35 USC §112, second paragraph as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicants regards as the invention. Various amendments were made throughout claim 22 to bring it into conformity with the requirements of 35 USC §112, second paragraph. Therefore, Applicants submit that this rejection overcome and should be withdrawn.

Specifically, amendments were made to claim 22 to overcome the objections noted by the Examiner in paragraphs 2 and 3 of the Office Action.

Claims 22, 26, 29 and 32 stand rejected under 35 USC §103(a) as being unpatentable over Spies (U.S. Patent No. 6,055,314) in view of Miller (U.S. Patent No. 5,920,701); and claim 24 stands rejected under 35 USC §103(a) as being unpatentable over Spies and Miller in view of Van Wie (U.S. Patent No. 5,943,422). These rejections are traversed for the following reasons. Applicants submit that the features of the present invention as now more clearly recited in claims 22, 24, 26, 29 and 32 are not taught or suggested by Spies, Miller or Van Wie whether taken individually or in combination with each other as suggested by the Examiner. Therefore, Applicants respectfully request the Examiner to reconsider and withdraw these rejections.

Amendments were made to each of the claims so as to more clearly describe features of the present invention.

The present invention as now more clearly recited in the claims is directed to a digital contents distribution method and computer program, whether stored on a computer readable medium or a program file, and a digital contents distribution system. According to the present invention, the digital contents distribution method and system distributes digital contents in a digital contents distribution system including a content database center which stores digital content, a vending device which sells the digital contents stored in the content database center and a network which interconnects the content database center and the vending device to each other. According to the present invention, the vending device selects digital contents desired by a user in response to user input and generates a request for distribution of the selected digital contents if said selected digital contents is not saved in the store which corresponds to the vending device. The vending device sends the request to the content database center which in response to such requests generates a distribution schedule for controlling distribution of selected digital contents to the stores. The content database center instructs distribution of the selected digital contents to each of the stores according to the distribution schedule and the vending device at each of the stores sells the selected digital content from the distributed selective digital contents to the user.

The above described features of the present invention provides unique advantages over that of conventional systems being that the present invention provides a digital contents distribution method, system and computer program which

allows for quick and immediate response to user desires. As is clear from the above described features of the present invention as now more clearly recited in the claims, the digital contents distribution system, particularly the content database center, responds to request from users for the distribution of digital contents not saved at the store in which the vending device, being used by the user, is located. This feature of the present invention allows for the quick distribution of digital content selected by the user that may, for example, become suddenly popular and as such is not stored at the store.

The above described features of the present invention now more clearly recited in the claims are not taught or suggested by any of the references of record whether taken individually or in combination with each other. Particularly, the above described features of the present invention are not taught or suggested by Spies, Miller or Van Wie whether taken individually or in combination with each other as suggested by the Examiner.

Spies teaches a system and method for secure purchase and delivery of video content programs. However, as recognized by the Examiner on page 3 of the Office Action:

“Spies et al do not expressively disclose generating, by the content database center, a distribution schedule for controlling distribution of the digital contents corresponding to said stores or distributing the contents to each of said storage according to said distribution schedule”.

Thus, it is quite clear that the Examiner recognizes that Spies does not teach or suggest the generating of a distribution schedule as recited in the claims.

Further, it is quite that Spies does not teach or suggest the generation of a distribution schedule in response to requests for selected digital contents not stored at a vending device as in the present invention. As described above, the present invention as recited in the claims provides a digital contents distribution center which dynamically adapts to user demands by generating a distribution schedule based upon requests from the users using the vending devices at the respective stores. These features of the present invention allows for digital content which may suddenly become popular and as such not stored at the store to be immediately distributed to the stores. Such features are clearly not taught or suggested by Spies.

In the Office Action the Examiner recognizes Spies does not teach or suggest the above described features of the present invention as recited in the claims. However, the Examiner attempts to supply these deficiencies by combining Spies with Miller. Miller teaches the scheduling of data transmission by the use of a system illustrated, for example, in Fig. 1 that performs the steps according to the flowchart illustrated in Fig. 3 thereof. As taught by Miller, a scheduler 10 is provided which generates a schedule to be used for the distribution of digital contents from the content sources 12, 14 through the replication servers 16, 18, 26 to various subscribers 22. As taught by Miller, the scheduler 10 receives content distribution requests from the content sources 12, 14. These contents distribution requests from the content sources 12, 14 includes information regarding the desired distribution of data to subscribers of the content. This data may take the form of newspapers, periodicals and other types of information which are scheduled for delivery at particular times and dates. The Examiner's attention is directed to col. 6, lines 20-25

of Miller. Miller teaches that the scheduler 10 upon receipt of such distribution requests generates a schedule based upon various parameters such as the bandwidth available for data transmission, the time available for transmission to be completed, the amount or size of the data to be delivered, etc. The Examiner's attention is directed to col. 4, lines 48-59 of Miller. It is important to note that in Miller the content sources 12, 14 requests distribution causing the scheduler 10 to generate a distribution schedule, not the subscribers 22.

At no point is there any teaching or suggestion in Miller that the schedule is generated based upon requests from the subscribers 22 which correspond to the users using the vending devices as in the present invention. Miller simply teaches a distribution method and system which allows for the periodic distribution of periodically occurring information to subscribers of such information. There is no teaching or suggestion in Miller that the system taught therein can be adapted or can readily meet the needs of the distribution of digital contents in a retail setting from content sources to the subscribers to provide, for example, books, movies, music or the like when such content is not saved in the store being used by the subscriber as the in present invention.

More particularly, there is no teaching or suggestion in Miller which allows for the system therein to dynamically adapt to user requests where particular types of digital contents may suddenly become popular and such digital contents is not stored in the vending device being used by the user who desires such digital contents as in the present invention as recited in the claims. Thus, it is quite clear that Miller is not

intended to solve the problems or provide features to which the present invention is directed.

Therefore, both Spies and Miller fail to teach or suggest selecting, by a user device, digital contents desired by a user in response to user inputs, wherein the vending device corresponds to a store selling the digital contents, and when the selected digital contents is not saved in the store, generating, by the vending device, a request for distribution of the selected digital contents and sending the request to the content database center as recited in the claims.

Further, both Spies and Miller fail to teach or suggest that in response to requests for distribution of selected digital contents from the vending devices, generating, by the content database center, a distribution schedule for controlling distribution of the selected digital contents to the stores, and instructing, by the content database center, distribution of the digital content to each of the stores according to the distribution schedule as recited in the claims.

Still further, both Spies and Miller fail to teach or suggest selling, by the vending device, at each of the stores, the selected digital content to the user from the distributed selected digital contents as recited in the claims.

Thus, as is quite from the above, both Spies and Miller fail to teach or suggest features of the present invention as now more clearly recited in the claims.

Therefore, reconsideration and withdrawal of the 35 USC §103(a) rejection of claims 22, 26, 29 and 32 as being unpatentable over Spies in view of Miller is respectfully requested.

The above noted deficiencies of both Spies and Miller are also evident in Van Wie. Van Wie is merely relied upon by the Examiner for an alleged teaching of determining whether the content of the digital contents has been generated without error. Thus, Van Wie does not supply any of the above noted deficiencies of both Spies and Miller.

Therefore, combining the teachings of Spies, Miller and Van Wie in the manner suggested by the Examiner in the Office Action still fails to teach or suggest the features of the present invention as now more clearly recited in the claims. Accordingly, reconsideration and withdrawal of the 35 USC §103(a) of claim 24 as being unpatentable over Spies, Miller in view of Van Wie is respectfully requested.

As indicated above, the present Amendment adds new claims 33 and 34. New claims 33 and 34 recite many of the same features shown above not to be taught or suggested by any of the references of record whether taken individually or in combination with each other. Therefore, the same arguments presented above with respect to claims 22, 24, 26, 29 and 32 apply as well to new claims 33 and 34.


The remaining references of record have been studied. Applicants submit that they do not supply any of the deficiencies noted above with respect to the references utilized in the rejection of claims 22, 24, 26, 29 and 32.

In view of the foregoing amendments and remarks, applicants submit that claims 22, 24, 26, 29 and 32-34 are in condition for allowance. Accordingly, early allowance of claims 22, 24, 26, 29 and 32-34 is respectfully requested.

To the extent necessary, the applicants petition for an extension of time under 37 CFR 1.136. Please charge any shortage in fees due in connection with the filing of this paper, including extension of time fees, or credit any overpayment of fees, to the deposit account of MATTINGLY, STANGER & MALUR, P.C., Deposit Account No. 50-1417 (500.38037CX1).

Respectfully submitted,

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